

MINUTES OF THE MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES

DATE: January 9, 1981  
TIME: 9:00 A. M.  
PLACE: DLNR Board Room  
Kalanimoku Building  
1151 Punchbowl Street  
Honolulu, Hawaii

ROLL  
CALL

The meeting of the Board of Land and Natural Resources was called to order by Chairman Susumu Ono at 9:05 A. M. The following were in attendance:

MEMBERS

Mr. Moses Kealoha  
Mr. Stanley Hong  
Mr. Takeo Yamamoto  
Mr. Roland Higashi  
Mr. Thomas Yagi  
Mr. Susumu Ono

STAFF

Mr. James Detor  
Mr. Robert T. Chuck  
Mr. Kenji Ego  
Mr. Maurice Matsuzaki  
Mr. Libert Landgraf  
Mr. James Yamashiro  
Mr. Roger Evans  
Mrs. LaVerne Tirrell

OTHERS

Ms. Dona Hanaike, Deputy Atty. General  
Mr. Naone (Item E-3)  
Mr. Charles Chu (Item H-1)  
Mrs. Mary Won (Item H-1)  
Mr. Peter Garcia, DOT  
Ms. Sandy Oshiro, Reporter

MINUTES

Mr. Hong asked that the November 21, 1980 minutes be amended as follows:

- . Navy representative should be Carson instead of Carlson.
- . Referring to Page 19, Mr. Hong remembers asking the question of Mr. Shiraishi as to whether they had received permission from ADM to go into the conservation area. Mr. Shiraishi said that he received permission from Mr. Kay. Mr. Kay, however, denied this. Because this is a significant point, Mr. Hong asked that his question, and the answer, be included in the minutes.
- . Referring to the conditions of violations on Page 7, Mr. Kealoha remembered Mr. Evans saying that a conservation from urban boundary had been established and asked that this statement be included in the minutes.

Mr. Hong moved for approval of the November 21, 1980 minutes as amended above. Mr. Kealoha seconded and motion unanimously carried.

ADDED  
ITEMS

It was moved by Mr. Kealoha, seconded by Mr. Hong and unanimously approved by the board that the following items be added to the agenda:

Fish & Game

Item B-2 Recommendation of Hawaii Fisheries Coordinating Council to Amend Fuel Tax Laws

Item B-3 Request for Approval to Enter into Agreements with the Department of Planning and Economic Development and the Research Corporation of the University of Hawaii to Implement the "Hawaii Coastal Zone Management Program."

Forestry

Item C-3 Filling Forestry Worker II, WB-04, Position No. 27038, Kauai.

State Parks

Item E-5 Filling of Vacant Groundskeeper I Position, Royal Mausoleum State Monument, Oahu Parks Section.

Item E-6 Request for Duty Status while Attending American Association for State and Local History (AASLH) Workshop, Phoenix, Arizona.

Land Management

Item I-g Consent to Mortgage - David R. Shiigi, Mortgage, to State of Hawaii, by its Department of Agriculture, Mortgagee - Lot 9, Keonepoko Iki Farm Lot Subdivision - G. L. No. S-4423.

With concurrence from the Board, Chairman Ono deviated from the printed agenda and took up the items in the following order:

ITEM C-1

REQUEST FOR AUTHORITY TO HIRE A CONSULTANT: PREPARE AN ENVIRONMENTAL ASSESSMENT OF THE HALE PUAA SECTION, NANAWALE FOREST RESERVE.

Mr. Landgraf said that although he believes that the Department acted responsibly and properly in the use of the aforementioned forest reserve for their Tree Farm (tree planting) program to include interim papaya use, the Office of Environmental Quality Control believes an Environmental Assessment should be filed as a matter of procedure. The program, to include interim papaya use, has been temporarily suspended pending filing of an assessment. This assessment is estimated to cost approximately \$10,000.

ACTION

The Board, pending an approval by the Governor, unanimously authorized the Division of Forestry and Wildlife to negotiate and hire a consultant to prepare an Environmental Assessment of the Hale Puaa Section of the Nanawale Forest Reserve. (Higashi/Kealoha)

ITEM C-2

AWARD OF TIMBER (LAND) LICENSE.

On January 25, 1980 the Board authorized the Division of Forestry and Wildlife to conduct salvage sales of timber stands on the Islands of Hawaii, Maui and Kauai which had been damaged in the January 7-11, 1980 windstorm. In this respect, an auction was conducted on November 25, 1980 at which time only one bid was received for \$1.50 per fresh weight ton of harvested materials from Helle Logging and Supply, P. O. Box 90, Puunene, Maui.

ACTION

The Board, upon motion by Mr. Yagi and a second by Mr. Yamamoto, unanimously authorized the following:

1. That the Makawao and Koolau Forest Reserve timber sale be awarded to the highest bidder at a price of \$1.50 per fresh weight ton of harvested material.
2. That the license be completed in final form as called for in the Notice of Sale and Conduct of Sale documents.
3. That the Chairman and one member be authorized to sign the License for the Board.

ADDED

ITEM C-3

FILLING OF FORESTRY WORKER II, WB-04, POSITION NO. 27038, KAUAI.

This position became vacant with the resignation of Lawrence Ariola on September 11, 1980. This position is one of seven Forestry Worker II positions on the Kauai District.

ACTION

The Board unanimously approved the selection of Stafford Mack Soto to fill Position No. 27038. (Hong/Yagi)

ITEM D-1

SOIL AND WATER DISTRICT DIRECTOR

ACTION

The Board, upon motion by Mr. Higashi and a second by Mr. Yagi, unanimously certified the election of George Mikami, Researcher at HSPA, to serve as Director for the Mauna Kea District for the term ending June 30, 1982.

ITEM E-1

FILLING OF VACANT PARK CARETAKER II POSITION, HAPUNA BEACH STATE PARK, HAWAII PARKS SECTION.

This position became vacant when the incumbent, Paul Kealoha, transferred to the Kalopa State Recreation Area effective December 1, 1980.

ACTION

The Board, upon motion by Mr. Higashi and a second by Mr. Kealoha, unanimously approved the appointment of William Shontell to Position No. 19171 assigned to Hapuna Beach State Park.

ITEM E-2

FILLING OF VACANT PARK CARETAKER II POSITION, WAILOA RIVER STATE PARK, HAWAII PARKS SECTION.

This position became vacant when the incumbent, Duane Koji, transferred to the Mauna Kea State Park effective December 1, 1980.

ACTION

The Board, upon motion by Mr. Higashi and a second by Mr. Kealoha, unanimously approved the appointment of Jeffery A. Souza to Position No. 12272, assigned to Wailoa River State Park.

ITEM E-3

APPROVAL OF GRANT-IN-AID FOR THE STABILIZATION OF KUILIOLOA HEIAU, WAIANAЕ, OAHU, HAWAII.

The Waianae Hawaiian Civic Club, Inc. proposes to establish and reconstruct appropriate portions of the Kuilioloa Heiau located at Kaneilio Point in Waianae. During the past year, investigations conducted at the heiau by the Waianae Hawaiian Civic Club, Inc. with the assistance of the Bishop Museum have uncovered significant information to enhance the proposed work. The Civic Club has received a grant-in-aid from the National Trust for Historic Preservation for \$104,000. This grant-in-aid, however, does not indicate a duplication of funding, but rather would be used as the required match for the National Trust funds. Mr. Yamashiro said that it was his understanding that the State appropriation of \$70,000 resulted from the efforts of this group.

ACTION

The Board unanimously approved a grant-in-aid of \$70,000 to the Waianae Hawaiian Civic Club, Inc., subject to the Governor's approval of grantee and release of funds.

ITEM E-4                    APPROVAL OF FEDERAL GRANT-IN-AID FOR WAKAMIYA INARI SHRINE, WAIPAHAU, OAHU.

The subject project being proposed calls for the eventual restoration of the structure which was relocated last year from Moiliili to the Waipahu Cultural Garden Park. The project received emergency approval from the Federal government for stabilization because portions of the roof structure were removed to facilitate the relocation.

ACTION                    The Board, upon motion by Mr. Kealoha and a second by Mr. Yamamoto, unanimously authorized the Chairman and another member of the Board to execute a grant agreement for \$11,000 with the Friends of Waipahu Cultural Garden Park, Inc. to stabilize the Wakamiya Inari Shrine, subject to the Attorney General's approval as to form.

ADDED                    FILLING OF VACANT GROUNDSKEEPER I POSITION, ROYAL MAUSOLEUM STATE  
ITEM E-5                    MONUMENT, OAHU PARKS SECTION.

This position became vacant when the incumbent, Ernest Romero, was promoted to Park Caretaker II at Honolulu Stadium State Park effective January 2, 1981.

ACTION                    The Board, upon motion by Mr. Kealoha and a second by Mr. Hong, unanimously approved the appointment of William K. McKee to Position No. 15215

ADDED                    REQUEST FOR DUTY STATUS WHILE ATTENDING AMERICAN ASSOCIATION FOR STATE  
ITEM E-6                    AND LOCAL HISTORY (AASLH) WORKSHOP, PHOENIX, ARIZONA.

Mr. Tadao Okimoto, Manager of our Wailoa Center in Hilo, Hawaii, has been selected as a participant to attend the AASLH Southwest regional workshop on "Interpreting the Humanities through Museum Exhibits", to be held in Phoenix, Arizona, January 18 to 21, 1981. Mr. Okimoto's scholarship assistance provides \$150.00 to defray expenses. Mr. Okimoto has requested duty status while attending the workshop.

ACTION                    The Board unanimously approved duty status for Mr. Okimoto based on the conditions outlined in the submittal to attend the AASLH workshop, Phoenix, Arizona. (Higashi/Yagi)

ITEM F-1                    DOCUMENTS FOR CONSIDERATION

MAUI

REVOCABLE PERMITS

Item F-1-a                    MICHAEL S. HOWDEN - Govt. land being TMK 2-1-04:por. 49, Makawao, Maui for access easement - \$10.25 per month.

Item F-1-b                    U. S. DEPT. OF COMMERCE, NATIONAL WEATHER SERVICE - Govt. land being TMK 2-2-07:por. 9, situate at Kolekole Hill, Papaanui, Makawao, Maui for use of weather monitoring instruments - Gratis rental.

Item F-1-c                    HALE PAU HANA HOMEOWNERS ASSOCIATION - Govt. Beach Reservation being TMK 3-9-04:por. 1, Kamaole Beach Lots, Kamaole, Kula, Maui for landscaping, maintenance and two stairways purposes - \$19.00 per month.

OAHU

REVOCABLE PERMIT

Item F-1-d                    HONOLULU DISPOSAL SERVICE, INC. - Lot 535, Sand Island, Oahu for parking and storage of refuse trucks and equipment purposes - \$310.00 per month (based on 2-1/2¢ per sq. ft., to be raised to 3¢ per sq. ft. effective March 1, 1981 and 4¢ effective August 1, 1981).

KAUAI

CONSENT TO ASSIGN

Item F-1-e

WILLIAM A. FONTANA, JR. and BARBARA L. FONTANA, Assignors, to ROBERT L. STEVENS, Assignee - Lot 43, Puu Ka Pele Park Lots, Waimea, Kauai - G. L. No. S-4497.

REVOCABLE PERMIT

Item F-1-f

JAMES R. CARVALHO - Portion of Nawiliwili Harbor Disposal Area, being TMK 3-2-03:por. 7 for storage and sandblasting purposes - \$110.00 per month.

Mr. Detor asked that Item F-1-f be amended by changing the area from 20,000 sq. ft. to 10,000 sq. ft. and adjusting the rental accordingly, from \$110.00 to \$55.00 per month. Collateral security should also be changed from \$220.00 to \$110.00.

HAWAII

CONSENT TO MORTGAGE

Added  
Item F-1-g

DAVID R. SHIIGI, mortgagor, to STATE OF HAWAII, by its Department of Agriculture, mortgagee - Lot 9, Keonepoko Iki Farm Lot Subdivision (Pahoa Agriculture Park), Keonepoko Iki, Puna, Hawaii - G. L. No. S-4423.

Mr. Kealoha moved to approve Item F-1 as amended. Mr. Hong seconded and motion unanimously carried.

ITEM F-2

STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTIONS AFFECTING STATE LANDS (KEAHOLE AIRPORT), NORTH KONA, HAWAII.

Mr. Detor explained that this is just a housekeeping measure which would take into account boundary adjustments that were necessary. Staff found that the original executive order is a part of the Queen Kaahumanu road, as aligned. Also, adjustments need to be made for the natural energy laboratory lease which will be awarded. In order to accomplish all of this, Detor said that it would be easier to cancel the present executive order and issue a new one.

Action

The Board, upon motion by Mr. Higashi and a second by Mr. Yagi, unanimously voted to amend the actions taken under agenda Items F-2, dated June 25, 1976, and F-2, dated May 12, 1978, as follows:

- A. Approve of and recommend to the Governor issuance of an executive order cancelling Governor's Executive Order No. 2472.
- B. Authorize the consolidation of Ke-ahole Airport Parcels 3, 4, 5, 6 (Revision 1), 7 and 9 together with the 7.734-acre portion of the Ke-ahole Point Lighthouse site.
- C. Approve of and recommend to the Governor issuance of a new executive order setting aside the areas consolidated under Recommendation B above as the Ke-ahole Airport together with existing easements for road and utility purposes to the control and management of the Department of Transportation for airport purposes.
- D. Authorize the subdivision of the consolidated airport lands to provide the area necessary for the pending lease to the Natural Energy Laboratory of Hawaii for energy research purposes together with non-exclusive easements for road access and utility purposes subject to the conditions listed in the submittal and other conditions as may be prescribed by the Chairman.

ITEM F-3

WENDELL TOMA REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT 4-B, BLOCK 3, KANIAHIKU VILLAGE SITE, KANIAHIKU, PUNA, HAWAII.

At its meeting of July 25, 1980, the Board granted an extension of the original building deadline from June 16, 1980, to December 15, 1980. Mr. Toma has informed staff that during this 6-month period his cesspool was completed and his construction drawings were finalized. Actual construction was delayed because of a shortage of certain building materials which have now been delivered to the job site and construction will commence shortly. Accordingly, Mr. Toma has asked for another 6-month extension.

ACTION

The Board unanimously voted to grant Mr. Wendell Toshio Toma a second extension of six (6) months to June 16, 1981, in which to meet the building requirements set forth in Special Sale Agreement No. S-5520. (Higashi/Hong)

ITEM F-4

RUSSELL HATADA REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT 3, UNIVERSITY HEIGHTS, 3RD INCREMENT, WAIAKEA, SO. HILO, HAWAII.

By letter dated December 10, 1980, Mr. and Mrs. Russel Y. Hatada requested a second 6-month extension of the building requirements stipulated within SSA S-5509 covering Lot 3 of the University Heights Residential Subdivision, 3rd Increment, Waiakea, So. Hilo, Hawaii. As explained in their letter, they have not been able to qualify for a loan. In recent weeks interest rates have escalated so rapidly that lending institutions are not making any construction loans at the present time.

The purchase price of \$17,000 was paid in full in 1978 and final construction drawings for the dwelling were submitted to and approved by the Hawaii District Land Agent on December 15, 1980.

ACTION

The Board unanimously voted to grant Mr. and Mrs. Russell Y. Hatada a second 6-month extension, from December 18, 1980, to June 17, 1981, in which to satisfy the building requirements as set forth in Special Sale Agreement No. S-5509. (Higashi/Yagi)

ITEM F-5

COUNTY OF MAUI REQUEST FOR CANCELLATION OF EXECUTIVE ORDER NO. 525, COVERING QUARRY ROCK CRUSHER AND WATER EQUIPMENT SITE, KULA, MAUI.

The Office of the Mayor, County of Maui, has through the Office of the Governor requested the cancellation of Governor's Executive Order No. 525.

ACTION

The Board, upon motion by Mr. Yagi and a second by Mr. Higashi, unanimously approved a recommendation to the Governor for the cancellation of Executive Order No. 525 to the County of Maui.

ITEM F-6

DOWALD REQUEST FOR EXECUTIVE ORDER SETTING ASIDE WELL SITE AT KIHAI, MAUI.

The subject lot was acquired for the Kihei Well Site from Alexander and Baldwin, Inc. by deed dated May 10, 1976 for a consideration of \$1,700.00.

ACTION

The Board unanimously authorized the transmittal of a request to the Governor for the issuance of an executive order setting aside the acquired lot under the control and management of the Department of Land and Natural Resources, Division of Water and Land Development for well site purposes. (Yagi/Yamamoto)

ITEM F-7

CITY & COUNTY OF HONOLULU, BOARD OF WATER SUPPLY, APPLICATION FOR PIPELINE EASEMENT, PUPUKEA, KOOLAULOA, OAHU.

By Final Order of Condemnation dated November 13, 1975 the State of Hawaii acquired 6.123 acres of land from the James Campbell Estate for the Sunset Beach Elementary School site. In conjunction with the construction of improvements for the school site, a nine (9) foot wide water pipeline easement containing an area of 1,425 sq. ft., crossing over and under the school site, was required to service the school. The Board of Water Supply has indicated its willingness to accept the water pipeline easement.

ACTION

The Board, upon motion by Mr. Kealoha and a second by Mr. Hong, unanimously voted to:

1. Grant the City and County of Honolulu, Board of Water Supply a perpetual non-exclusive nine (9) foot wide water pipeline easement for the consideration of \$1.00 subject to the conditions listed in the submittal, with the exception of the relocation clause, which was waived, and any other terms and conditions as may be prescribed by the Chairman.
2. Petition the Land Court to designate the mentioned easement over and across Lot 522 as shown on Map 73 of Land Court Application 1095.

ITEM F-8

CITY & COUNTY OF HONOLULU REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND FOR PARK PURPOSES, KULIOUOU, HONOLULU, OAHU.

ACTION

The Board, upon motion by Mr. Kealoha and a second by Mr. Yagi, unanimously

- A. Approved of and recommended to the Governor issuance of an executive order setting aside Lots 3 and 4 to the City and County of Honolulu, Department of Parks and Recreation for the Kuliouou Neighborhood park purposes.
- B. Pending the set aside, granted the City and County of Honolulu immediate right of entry to the areas for design and construction of the proposed park facilities, subject to standard indemnity and hold harmless clause.

ITEM F-9

CATHELYN ALCON REQUEST FOR AMENDMENT OF REVOCABLE PERMIT NO. S-2749, HANAPEPE, KAUAI.

Mr. Alcon, a 75 year old bachelor who lives on a small social security income supplemented by assistance from DSSH, has requested that the Board consider revising his current business/residence revocable permit for which he currently pays \$110.00 per month. Mr. Alcon claims that his income barely covers his expenses and asked that the small commercial space fronting the residence be removed from his permit. Mr. Alcon formerly utilized the approximately 10 x 10 foot square commercial space to retail woven handbags, hats and other small miscellaneous items. He has discontinued this activity and no longer requires the space.

ACTION

The Board, upon motion by Mr. Yamamoto and a second by Mr. Hong, unanimously authorized:

1. The cancellation of Revocable Permit No. S-2749 effective January 15, 1981; and
2. The issuance of a revocable permit to Mr. Cathelyn Alcon covering 5053 sq. ft. of Parcel 53 of Tax Map Key 1-9-05 for residential purposes only to commence January 16, 1981 at the monthly rental of \$100.00, subject to the conditions listed in the submittal and all other terms and conditions contained in the standard revocable permit document, and such other terms as may be prescribed by the Chairman.

- ITEM F-10 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING OFFICE SPACE IN THE LAHAINA SQUARE, LAHAINA, MAUI.
- ACTION The Board unanimously approved the Department of Labor and Industrial Relations' request to lease subject to review and approval of the lease agreement by the Department of the Attorney General. (Yagi/Yamamoto)
- ITEM F-11 GOVERNOR'S OFFICE REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 904 KOHOU STREET, HONOLULU, OAHU.
- ITEM F-12 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING SUITE 614, 1164 BISHOP STREET, HONOLULU, OAHU.
- ITEM F-13 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING OFFICE SPACE AT 45-145 KAMEHAMEHA HIGHWAY, KANEOHE, OAHU.
- ITEM F-14 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING THE SECOND FLOOR OF THE BRAINARD & BLACK BUILDING, HONOLULU, OAHU.
- ACTION The Board, upon motion by Mr. Kealoha and a second by Mr. Yamamoto, unanimously approved Items F-11, F-12, F-13 and F-14 as submitted, subject to review and approval of the lease agreements by the Office of the Attorney General.
- ITEM Z-1 RESULTS OF PUBLIC AUCTION SALE HELD ON DECEMBER 18, 1980, ISLAND OF OAHU.
- Mr. Detor reported that a non-exclusive easement for submarine pipeline, tanker mooring and on/off leading facilities off Barbers Point, Honouliuli, Ewa, Oahu was sold to Chevron U.S.A. Inc. for the upset rental of \$252,000 per annum.
- ITEM B-1 OUT-OF-STATE TRAVEL REQUEST FOR MESSRS. MICHAEL FUJIMOTO AND WILLIAM BREWER TO PONAPE STATE (FEDERATED STATES OF MICRONESIA).
- Messrs. Fujimoto and Brewer will serve as technical advisors to assist in examining possible aquaculture sites and general aquaculture opportunities in Ponape located in the Eastern Caroline Islands of the Federated States of Micronesia (formerly Trust Territories of the Pacific). The coordination of the survey is being arranged through the Aquaculture Development Program at the request of the Honorable Governor Leo Falcam of Ponape State and has received the concurrence of Governor George Ariyoshi.
- The expenses for the survey team, including air fare, per diem and staff salaries, will be borne by the Government of Ponape. This will allow Department personnel to assist developing Pacific Islands areas, consistent with the State's goal of establishing Hawaii as a national and international center for aquaculture expertise.
- ACTION The Board unanimously approved the Out-of-State travel to Ponape State for Messrs. Michael Fujimoto and William Brewer. (Yagi/Kealoha)
- ITEM B-2 ADDED RECOMMENDATION OF HAWAII FISHERIES COORDINATING COUNCIL TO AMEND FUEL TAX LAWS.
- Before Mr. Ego got into the contents of the submittal, Mr. Ono explained that the Governor had appointed the Hawaii Fisheries Coordinating Council in response to an Act of the 1980 session to serve in an advisory capacity to the land board. Mr. Ono anticipates this to be an active



council -- advising the board on fishery matters. Mr. Ono felt this item to be significant since this is the first report from the council under the law that was set up. Mr. Ono stated that he serves as chairman, but two members of the council, Messrs. Agard and Goto were also present at the meeting.

Mr. Ego said that during the second meeting of the council the matter of fuel tax levied against the commercial fishermen was thoroughly discussed and, as a first major action of this council, it was their unanimous recommendation to the Board of Land and Natural Resources that action be initiated to exempt commercial fishermen from state and county fuel taxes. It was pointed out that during the past four years fuel costs have spiraled while the price of fish has increased only about 25-50%. (Mr. Ego at this point asked that his submittal be corrected. It mentions gasoline and diesel costs have increased over 300% and 100%, respectively. Instead, it should read gasoline and diesel costs have increased over 100% and 200% respectively.) Because fish sales have not increased to the proportionate level of fuel costs, the council came up with the recommendation that the board look into the matter of initiating measures to amend Chapter 243, HRS to afford boats or vessels engaged in duly licensed commercial fishing similar fuel tax exemption provided agricultural equipment.

Mr. Hong asked if the matter of this amendment would come under Ego's jurisdiction. Mr. Ego said that the tax law will be a legislative matter but, since this is the first recommendation of the council to the board, they are looking for direction from the board to pursue this matter. Hong stated: pursue or not pursue. Kealoha asked Ego if he was asking for authorization from the board to take whatever steps are necessary to amend Chapter 243, HRS. Mr. Ono explained that the Department of Transportation and the Department of Taxation would be involved in the review process.

Mr. Hong said that he was not unsympathetic to the fishing industry, but he is concerned that we are singling them out for special assistance. On this basis, he had reservations inasmuch as everyone else is being hit by escalating fuel costs. Kealoha said that because the farmers have a break, the fishermen are asking to be given the same consideration. Mr. Ono felt that this proposal would have come in even gasoline prices had not escalated since the basic point is seeking parity with the agriculture sector. Mr. Ono said that since the farm vehicles do not use the highways they are given relief and, as far as he knows, the boats also do not use the highways.

Since anyone could introduce this bill, Yagi asked if staff was requesting that the board initiate this bill rather than the commercial fishermen. Mr. Ono said that the intent here is to have the bill sponsored as an administrative measure -- assuming that it clears all of the review channels. Kealoha thought it was a good idea since the State was asking the State to cut out their portion of the taxes and not asking the oil companies to cut out the price of water which takes us to the most recent concern the board had regarding geothermal energy. He felt that it was a good move and a good thought on the part of the council.

Mr. Higashi asked how we would determine who would be eligible — like who are the duly licensed commercial fishermen. With that particular language, "duly licensed commercial fishermen", Ego said that he would interpret it to mean fishermen who have acquired commercial fishing licenses through our department. Referring to Table 1 of the submittal, Mr. Ego explained that presently 4¢ federal tax is being levied for gasoline and diesel oil; 8-1/2¢ state taxes for gasoline and 1¢ for diesel oil; and, depending on which county, 4¢ to 6-1/2¢ tax is levied for gasoline and nothing for diesel oil. However, in answer to Higashi's question, Ego said that he does not have all the details as to how the exemption will be claimed. Mr. Higashi's concern is that the person with the small boat who goes fishing occasionally while getting gas for his boat at the service station may take the opportunity to also fill his car up. He felt that this is something to be looked into.

Mr. Agard said that he expected a public hearing on this matter about January 19 and, maybe at that time, some of the questions Mr. Higashi is raising about identifying the people can be answered. A lot of the fishermen are buying their fuel in bulk and we are asking that he be exempt. For that person who is part-timing, we will request that he not be entitled to exemption. Agard stated that they themselves have a hard time identifying the commercial fishermen. For instance, there are some pumps at Kewalo and people who are buying gas from there will be given some tax break. As for those people buying gas at the service station, he wasn't sure it was going to be so easy.

Mr. Kealoha asked that the words "Department of Land and Natural Resources' staff" be added after the word authorize under RECOMMENDATION.

ACTION

The Board unanimously authorized the Department of Land and Natural Resources' staff to initiate measures to amend Chapter 243, HRS to afford boats or vessels engaged in duly licensed commercial fishing similar fuel tax exemption provided agricultural equipment. The Board also amended the submittal as follows: "gasoline and diesel costs have increased over 100% and 200%, respectively", instead of "gasoline and diesel costs have increased over 300% and 100%, respectively".  
(Hong/Yagi)

ADDED  
ITEM B-3

REQUEST FOR APPROVAL TO ENTER INTO AGREEMENTS WITH THE DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT AND THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII TO IMPLEMENT THE "HAWAII COASTAL ZONE MANAGEMENT PROGRAM".

The agreement between DPED and DLNR will essentially provide the mechanism to continue the CZM projects of DOCARE and the Division of Fish and Game through FY 1980-81. The DPED as the initiating agency has already finalized this document with approvals from the Governor, the Attorney General's office and has received a contract number from the State Comptroller.

In order to carry out the objectives of the CZM program as expeditiously as possible, Mr. Ego requested that the Board authorize entering into an Agreement with the DPED to implement the CZM program and to authorize the Division of Fish and Game to continue the services of the RCUH to provide administrative services.

ACTION

The Board, upon motion by Mr. Yagi and a second by Mr. Kealoha, unanimously authorized execution of the draft CZM Subgrant Agreement with DPED and the draft Amendment No. 1 with RCUH subject to the Governor's approval and approval as to form by the RCUH and Attorney General's Office.

RESUBMITTAL - REQUEST TO CLARIFY POLICY REGARDING SINGLE FAMILY RESIDENCE IN THE CONSERVATION DISTRICT.

On March 20, 1978, the Chairman of the Board of Land and Natural Resources, in consultation with the Board, established a policy of one house per lot in the Conservation District, regardless of lot size. On June 4, 1978, a revised Departmental Regulation No. 4 became effective providing for the zoning of the Conservation District into the following four subzones:

Protected Subzone: Objective is protect valuable resources in such designated areas as restricted watersheds, fish, plant and wildlife sanctuaries, significant historic, archaeological, geological and volcanological features and sites, and other designated unique areas.

Limited Subzone: Objective is to limit uses where natural conditions suggest constraints on human activities.

Resource Subzone: Objective is to develop, with proper management areas to ensure sustained use of the natural resources of those areas.

General Subzone: Objective is to designate open space where specific conservation uses may not be defined, but where urban use would be premature.

Regulation No. 4 requires, as a guideline, that all applications be reviewed in such a manner that the objective of the subzone(s) is given primary consideration. Mr. Evans said that this has resulted in a standard practice by the Planning Office on recommending denial for single family residences in the Limited Subzone. Staff is also of the opinion that its recommendation should be consistent with law as suggested from time to time by the courts.

One such area of concern is Haena, Kauai, specifically the Haena Hui petition, approved by the Kauai Courts on October 20, 1967. These Lands lie within the Limited Subzone.

In addition to the conditional use aspect, Regulation No. 4, provides for nonconforming use under the following conditions:

- a. The lawful use of any building, premises or land for any trade, industry, residence or other purposes which is the same as and no greater than that established prior to October 1, 1964, or prior to the inclusion of such building, premises, or land with the Conservation District; or
- b. Any parcel of land not more than ten acres in area which, as of January 31, 1957, was subject to real property taxes and upon which such taxes were being paid, and which was held and intended for residential or farming use, whether actually put to such use or not; provided that the use, whether or not established, shall be limited to either one residential dwelling or a farm with no more than one residential dwelling.

The vacant parcels within the Haena Hui petition do not qualify as nonconforming use due to:

- a. They were vacant and did not have a residence in existence as of October 1, 1964, and
- b. The vacant parcels were not established as such prior to 1957.

As a result, the effect is that they do not meet the guidelines as a conditional use within the Limited Subzone, or, the criteria for nonconforming use.

Staff is concerned by the process in which the Haena Hui petition was approved by the courts. Normally, a land petition before the courts receives Land Board approval prior to approval by the courts. The vehicle for this approval is a Conservation District Use Application for subdivision. The Haena Hui petition was approved by the courts without prior board approval on October 20, 1967.

Staff, stated Mr. Evans, is of the opinion that the individuals involved acted in good faith by applying to and following the dictates of the courts in the matter, albeit the oversight of the Board of Land and Natural Resources.

Mr. Hong said that most of the landowners who have approached the board have said that they would like to build a house on their land so they can live on it. However, he has heard that there are many who want to just build a house then turn around and sell it at speculative prices. Hong asked if there was anything we could do to prevent such speculation. Evans said that when an application is reviewed, staff's only concern is the land use question and their recommendation would be 100% based upon the land use. Mr. Hong stated that the board's decision is based on people wanting to use their land to build a home for themselves. That use is persuasive. But, if in fact, that is a misrepresentation, then the board is concerned. Evans said that he does not consider the question of a person wanting to live there with his family as a criteria. Mr. Hong asked if perhaps there were other similar situations when policies were set. Evans said maybe on public lands, but he is not aware of any on private lands, such as this. Deputy Attorney General, Dona Hanaike, said that she was thinking of methods used with their own dispositions; however, she would have to check further.

Getting back to the land use, Kealoha asked if an application for subdivision was granted and the lot is subdivided into five separate parcels having five different tax map keys, and the five different owners came in to apply for construction of a house, would recommendation no. 2 of our submittal apply? Evans said it would not for the reason that condition no. 2, which refers to Haena, as the situation stands right now, if a person came in and wanted to build a house, staff would say no. However, if the board were to approve this submittal and someone came in and wanted to build a house, the probability is that he could.

Mr. Ono said that the intent is to prevent future misrepresentation or misunderstanding whether the house is already built or yet to be built.

Kealoha agreed. However, he wondered about the person who continuously expands his house thereby making it possible for more than one family to live in the house. Evans said that if there was a house on the property now and a person wanted to expand he would have to come in with a new application since statute requires an application whenever there is 1) a new use, 2) change in use, or 3) expansion of use. However, Evans said that he has not been able to come up with a way to apply this retroactively.

In the event the board adopted staff's recommendation, Mr. Higashi said that he was concerned about each landowner within that hui being notified of the action taken. Those people whose applications were denied earlier may think that their property isn't worth as much since they could not build a house and, therefore, sell their property at a lesser price -- especially if they are not aware of the fact that they can now build a home on their property. Evans said that the question was an excellent one since there are cases where people have been denied. Were it to be the case that the board did incorporate condition no. 2 regarding Haena, and it would be the board's wish that the property owners be notified, Evans said that all property owners who do not have a house on the property whether they have applied to us in the past or whether they have applied and been denied, would be notified. In fact, it might be okay to notify everyone -- even if they had a house on the property since one of the recommendations is that there be only one house per lot. If we take an action which says that you can now have a house, someone that already has a house may interpret that to mean that he can have another house so the board may want to direct staff to notify everyone about exactly what the conditions are.

Mr. Evans asked that a third condition be added as follows:

- . That any landowner taking advantage of land use under this policy place this approval in recordable form, have this made a part of the deed instrument and have this recorded prior to submission for approval of the subsequent construction plans.

The board and the staff did have a number of concerns about when an individual is granted a permit to build a house and in future days when this person sells the land the new buyer is not aware of the restrictions placed on the property. Therefore, after discussions with the attorney general's office, staff thought about issuing a permit in recordable form.

Mr. Hong asked what the advantage would be to having this information recorded. The advantage, said Evans, is that we will not be put in a position where unknowingly a future potential purchaser buys a piece of property, comes in and wants to do something else with the property, and we feel like the heats being placed on staff when we previously acted specifically on something. The advantage to the future purchaser will be evident because now when he goes to buy he will see the limitations placed by the board. Staff would like to clarify things so that there will be fewer misunderstandings on the part of the potential future buyer. Kealoha asked whether this process would take too much time. Evans said that it would depend on the individual landowner and the individual applicant. Mr. Ono asked about the homes already built. Evans said if they are not recorded now problems would probably still continue.

Evans said that they are recommending in each case in terms of single family housing:

1. That each case be treated on its individual merits in accordance with Section 6 of Regulation 4, which deals with Standards: Land Use Conditions and Guidelines. In other words, staff is asking the board to re-ratify existing procedures.
2. That in the area of Haena, Kauai specifically those lands identified as the Haena Hui petition approved by the courts on October 20, 1967 and any other lands within the Limited Subzone in which the courts approved a petition with the intent to establish residential lots, the Board allow as a matter of policy one residential house only under those conditions listed in the submittal.

In the past, when applications have come before the board because they are conditional uses in a limited subzone, staff has recommended negative since the proposed use does not meet the criteria for the limited subzone which is to not allow basically human activity within the limited subzone. The specific criteria used is 1) either flood control, 2) tsunami or, in some cases, a combination of both. Staff has checked their criteria for the placement of these lands in the limited subzone and the criteria is good. When these applications have come in through the non-conforming use aspect and they don't meet the requirements listed under non-conforming use, then basically the requirement that staff has looked at is that the lot must have been in existence since 1964. The partition we're looking at was created in 1967, as a result they do not meet the non-conforming use criteria. Therefore, staff has been coming to the board in the past recommending denial for either of the reasons.

Staff is also recommending that no further subdivision be allowed. This means that should the board adopt this policy, and say that a lot is presently in seven acres, that lot will stay in seven acres.

Mr. Higashi asked if that mean't it no longer becomes a conditional use -- since right now it is. Evans said that one of the things we'd look at is what is the purpose of the subdivision. However, Higashi said that under the proposal it says no further subdivision of the lot will be allowed. Right now under Regulation 4 it is a conditional use. Evans said that no one would be stopped from applying, however, staff would come to the board with a recommendation that no subdivision be allowed. In other words, it is staff's aim to keep the land in the size and shape that presently exists.

Mr. Yagi asked if a property owner could apply now for a subdivision and have it approved. Evans said only if the board approves it. Staff's intent here was to basically, should the board approve this, go along with what the court says and the court says that we have these lands and we've made 150 lots on it for residential purposes and subsequently some houses were built and so we're trying to say that we still want to have 152 lots -- not more than 152 lots so any further subdivisions would create more lots. The houses to be built would be one per lot.

Mr. Evans did not feel that the courts expected the density in the area to increase over and above what they approved. So you're saying, said Mr. Kealoha, that those homes already in the area were built prior to 1964. Evans said that some may have been executed prior to 1964 and some may have been executed prior to 1968. Before Regulation No. 4 was revised in 1978, there were only two subzones -- the "restricted watershed" and the "general". Haena was in the general subzone at the time and, under the old regulation, it was a permitted use so we would have had a situation where a guy applied for a permitted use in a general subzone and staff would have recommended approval by the board -- so these houses could have been built anytime up to 1978. Kealoha said that this density was permitted under the old Regulation 4. The land use has not changed, it is still in conservation and the board, during a certain period of time, permitted an increase in density either by homes or by population. So, under the same Regulation 4 and under the same use, you're saying, Mr. Evans, that we should permit no more people or houses in the area? What we're saying, said Mr. Evans, is that those vacant lots be allowed only one house. Under the permitted aspect of the old regulation that is all that we would have allowed. Roger, said Mr. Ono, you

mentioned that the courts allowed up to 150 lots for residential lots -- wasn't that specific? Yes, answered Roger. However, to make sure that we're on the same trend of thought, I would like to say that there are lots in the Haena Hui owned by the County of Kauai, and there are lots owned by one guy owning more than one lot, so I just wanted to make it clear that when we speak of the term residency, it doesn't mean that there was going to be one guy buying one lot for his residence. You may have one person owning ten lots which was done when the Haena Hui was established.

ACTION

Mr. Kealoha asked that action on this item be deferred until the next meeting (January 23, 1981), at which time the board may be a little more specific about which direction they might want to take. Mr. Hong asked also that the Attorney General's office look into the aspect of whether we have any jurisdiction as far as speculation. Hong questioned also whether this amounted to a disposition and, if it does, do we have some obvious jurisdiction. If we do, what are the possible provisions that might be included.

ITEM H-2

CONSERVATION DISTRICT USE APPLICATION FOR BOAT HARBOR USE AT KEALAKEHE, NORTH KONA, HAWAII (DOT/HARBORS DIVISION).

The Department of Transportation is requesting, for harbor use, a portion of submerged land of Honokohau Bay, Kealakehe, No. Kona, Hawaii. The following projects are proposed:

1. Boundary amendment to the pending executive order:

The original executive order was submitted in May, 1979. However, because of various land development changes, a new executive order was introduced to conform to the new development proposal which utilizes a smaller land area.

2. Improvements to the existing facilities include slips for the berthing of boats, a permanent fuel docking site, parking areas, restrooms, harbor administration facilities, boat maintenance and repair services, charter and cruise boat services, and commercial and retail areas.

3. Utilization of land and water areas so as to offer small craft operators adequate facilities and service, to implement a variety of recreational opportunities, and to make the harbor a source of pride to all citizens of the State.

Staff, after reviewing the application and comments of the consulted agencies, finds the project as proposed, which utilizes a smaller land area, will have little or no significant adverse effects to the surrounding environment within the Conservation District.

Staff also is of the opinion that the proposed boat harbor use is felt to be reasonable and consistent with the objective and intent of the Resource Subzone of the Conservation District, and compatible with existing uses in the surrounding area.

However, inasmuch as the proposed recreational uses (PROPOSED USE No. 3) are not covered by an applicable Special Management Area (SMA) Use Permit or clearance, Mr. Evans said that such uses should be excluded from the scope of the Board approval at this stage. The applicant may reapply for the uses at a later date when SMA clearance for the said purpose is obtained.

ACTION

The Board unanimously approved this application for boat harbor use, with the exclusion of the proposed recreational uses of Tax Map Key 7-4-08:3, Kealakehe, No. Kona, Hawaii, subject to the conditions listed in the submittal. (Higashi/Yagi)

ITEM H-3

CONSERVATION DISTRICT USE APPLICATION FOR SUBDIVISION USE AT KAHALUU,  
KOOLAUPOKO, OAHU (M/M CARL MCCLAIN)

This property is jointly owned by Mr. and Mrs. Nicholas F. Greener and Mr. and Mrs. Carl McClain. The purpose of this subdivision is to sever the undivided interest ownership so that Mr. and Mrs. Nicholas F. Greener will be able to keep their life estate over Lot F-1, and Mr. and Mrs. Carl McClain will have exclusive control and ownership over Lot F-2.

The proposed subdivision into two lots already contains two (2) residential dwellings on the subject property, it seems that the existing habitation density and available open space will not be changed as a result of the subject request.

Staff, after reviewing the application and comments of the consulted agencies, finds the project as proposed will have little or no significant adverse effects to the surrounding environment within the Conservation District.

Staff also is of the opinion that the proposed subdivision use is felt to be reasonable and consistent with the objective and intent of the General Subzone of the Conservation District, and compatible with existing uses in the surrounding area.

ACTION

Unanimously approved as submitted, subject to the conditions listed in the submittal. (Kealoha/Yagi)

ITEM I-1

APPOINTMENT OF VOLUNTEER HUNTER SAFETY TRAINING INSTRUCTORS, ISLANDS OF MAUI AND OAHU.

ACTION

The Board, upon motion by Mr. Kealoha and a second by Mr. Yagi, unanimously approved the appointment of the following individuals as Volunteer Hunter Safety Training Instructors:

Maui: Lance M. Yamashiro  
Walter B. Quisenberry

Oahu: Richard de Veas, Jr.  
Kenneth T. Yoshimoto  
Allan D. Rutherford  
Robert M. Hirayama

ITEM J-1

ISSUANCE OF A LICENSE, HARBORS DIVISION, KAWAIHAE HARBOR, KAWAIHAE, HAWAII (U.S.A., DEPARTMENT OF THE ARMY).

ACTION

Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Higashi/Yagi)

ITEM J-2

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAUNAKAKAI WHARF, KAUNAKAKAI, MOLOKAI (MAUI PETROLEUM, INC.).

ACTION

Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Yagi/Higashi)

ITEM J-3

ISSUANCE OF REVOCABLE PERMIT NO. HY-80-676, HIGHWAYS DIVISION, 1503 LILIHA STREET, HONOLULU, OAHU (HERBERT HEE).

ACTION

Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Kealoha/Yagi)



Mr. Ono asked that the board refer back to Item H-1 in order to accommodate certain individuals present at the meeting who would be directly affected by the policy being recommended under Item H-1. Since the next board meeting would be held on the island of Maui, he asked that they be given the opportunity to express their views at this meeting.

Mr. Charles Chu, Jr., representing the fourth generation of people who have lived in the Haena area, asked that they be allowed to build a single family residence on the property which they own. He did not feel that the value of their land, whether it be up or down, was a concern of the board. Chu said that they had done all that the State had asked, including paying for very expensive archeological surveys and yet they have not been allowed to do anything on the land although they pay the taxes. We are only asking that we be allowed to build a single family dwelling, said Mr. Chu. Mr. Chu realized that his appeal was an emotional one. However, his parents who really worked the land would never realize the answer to the question of whether they would be allowed to build a residence and he would like to see this happen in his generation. In answer to Mr. Ono's question, Chu said that he was in favor of staff's recommendation.

Mary Won, one of the lot owners, explained that there were five families who were not able to buy each other out so they want to build on their property. She explained, also, that these lands were inherited and two families were involved. However, when they went to court a decision was made to split the property down the middle and it was recorded as such. But when they came to ask the board for approval to partition, the board said no. She said that the courts gave 50% of the property to the Akanas and 50% to the Chus, which consists of five families.

In terms of land use, said Roger, we use the term subdivision where the court uses partition -- both mean the same. Generally, the board's policy has been that if someone wants to build a house on a parcel of land, everything else being equal and there are several interests involved, everyone signs and the board will allow one house on the lot. However, if someone comes in for a subdivision, as in this case, we would recommend denial because of the objectives of the limited subzone.

Mrs. Won said that the word subdivision was deceiving because they did not request a subdivision or to build a house on the property. All they wanted was the lot to be allotted to the Akanas, who have half the property, and her family, the Chus, which consists of five families.

Your question, said Mr. Kealoha, and Mr. Chu's, are both different. One wants to build on an empty lot and you want to subdivide so each one can build on his own lot. Since the circumstances are different, it's hard to satisfy everybody. We're trying to satisfy the major portion of the landowners.

Mr. Ono explained that this matter would be discussed further at the board's next meeting on Maui so if anyone else wanted to add their comments, they could contact Mr. Evans.

ADJOURNMENT There being no further business, the meeting adjourned at 11:00 A. M.

Respectfully submitted,

*J. Lawrence U. Tirrell*

J. LAWRENCE U. TIRRELL

APPROVED

*J. O. ...*

SUSUMU ONO

Chairman

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